



Translation

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 02143PCT	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/FR2003/003740	International filing date (day/month/year) 16 décembre 2003 (16.12.2003)	Priority date (day/month/year) 16 décembre 2002 (16.12.2002)
International Patent Classification (IPC) or national classification and IPC A61K 9/48		
Applicant PARIS, Laurence		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 1 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 09 juillet 2004 (09.07.2004)	Date of completion of this report 31 March 2005 (31.03.2005)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/FR2003/003740

I. Basis of the report

1. With regard to the elements of the international application:*

- ☐ the international application as originally filed
- ☒ the description:
 pages 1-25, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☒ the claims:
 pages 1-16, 17 (part.), 24 (part.), 25-36, as originally filed
 pages _____, as amended (together with any statement under Article 19
 pages _____, filed with the demand
 pages 17 (part.), 18-23, 24 (part.), filed with the letter of 09 February 2005 (09.02.2005)
- ☒ the drawings:
 pages 1/4-4/4, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item. These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/FR 03/03740

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	11, 17, 20, 25, 28, 29	YES
	Claims	1-10, 12-16, 18, 19, 21-23, 26, 27, 30-36	NO
Inventive step (IS)	Claims		YES
	Claims	1-36	NO
Industrial applicability (IA)	Claims	1-36	YES
	Claims		NO

2. Citations and explanations

This report makes reference to the following documents:

D1: US 2002/019447 A1

D2: FR-A-2 767 070, cited in the application

D3: WO 01/07507 A

In the absence of other indications, reference is made to the passages cited in the international search report.

Polysaccharide compositions (thickening agents) that can be used to produce hard and soft capsules, and that jellify after the admixture of complexing agents, are known from the prior art. D1, for example, describes film-forming compositions produced from hydrocolloidal sols (such as konjac/xanthan, guar/xanthan, etc.) with the admixture of boron salts; figure 6, in particular, shows the use of clarified hydrocolloids for producing various types of soft capsules. The mannans and gums used are thickening agents in that they produce viscous sols (cf. column 2, [0018] and [0020]).

D2 describes capsule skins produced from carrageen. On page 3, a list is found with the types of carrageens that can be used. Lambda carrageen is mentioned as a thickening

agent. In the examples, a mixture of carrageens appears to be used, hence including lambda carrageens. Moreover, the same additives are used as in the present application.

In D3, soft capsules are produced from pullulan with the optional admixture of polysaccharides, such as gum arabic, wellan, rhamsan. Additives that are similar or identical to those in the present application are added.

The plasticising, surfactant, disintegrant additives, etc. used in the present application are also conventional additives, and their composition depends on the type of product that is to be produced.

For these reasons, the subject matter of claims 1-10, 12-16, 18, 19, 21-23, 26, 27 and 30-36 does not appear to be novel over D1-D3 (PCT Article 33(1) and 33(2)).

It should be noted that

- the use of xanthan gum (thickener), for example, is not excluded from the generic wording of claim 1;
- the presence of gelling agents is not excluded from claim 1;
- the mention of a different use (soft/hard capsules) cannot render compositions novel over prior art compositions containing the same ingredients.

An inventive step could be recognised for possibly novel aspects (restriction to certain thickeners, absence of gelling agents) of the application only if a surprising effect were demonstrated.